

**ROYAL BOROUGH OF KENSINGTON & CHELSEA**

**REPORT BY THE EXECUTIVE DIRECTOR, PLANNING & CONSERVATION**

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PLANNING & CONSERVATION COMMITTEE  
PLANNING SERVICES COMMITTEE  
DELEGATED

APP NO. PP/04/00802 /DT  
AGENDA ITEM NO.

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**ADDRESS/SUBJECT OF REPORT:**

Plots 5 & 6 St.  
Ervans Road,  
Opposite Muslim  
Cultural Centre,  
244 Acklam Road,  
London, W.10

APPLICATION DATED 07/04/2004

APPLICATION REVISED

APPLICATION COMPLETE 14/04/2004

**APPLICANT/AGENT ADDRESS:**

Woods Hardwick,  
17 Goldington Road,  
Bedford,  
MK40 3NH

CONS. AREA N/A CAPS No

ARTICLE '4' No WARD GOC

LISTED BUILDING No

HBMC DIRECTION

CONSULTED OBJ.

SUPPORT PET.

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**RECOMMENDED PROPOSAL:**

**RBK& C DRAWING NO(S):**

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**RECOMMENDED DECISION:**

**CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:**

**ROYAL BOROUGH OF KENSINGTON & CHELSEA  
REPORT BY EXECUTIVE DIRECTOR, PLANNING &  
CONSERVATION**

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**APP NO. PP/04/00802/MAJM  
PLANNING SERVICES COMMITTEE 13/07/2004  
AGENDA ITEM NO. 35**

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**SITE ADDRESS**

Plots 5 & 6 St. Ervans Road, Opposite Muslim Cultural Centre, 244 Acklam Road, London, W.10	<b><u>APPLICATION DATED</u></b>	07/04/2004
	<b><u>APPLICATION COMPLETE</u></b>	14/04/2004

**APPLICANT/AGENT ADDRESS**

**Woods Hardwick,  
17 Goldington Road,  
Bedford, MK40 3NH**

<b><u>LISTED BUILDING</u></b>	No	<b><u>CONS. AREA</u></b>	N/A	<b>WARD</b> Golborne
<b><u>CAPS</u></b>	No	<b><u>ENGLISH HERITAGE</u></b>	N/A	<b>ART '4' No</b>
<b><u>CONSULTED</u></b>		<b><u>SUPPORT</u></b>		<b><u>PETITION</u></b>
193	<b><u>OBJECTIONS</u></b> 1	0		0

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**Applicant** Dr. Abdulkarim Khalil,

**PROPOSAL:** Erection of 2,845 sq.m of mixed use development comprising 700 sq.m office/work space within Use Class B1, 545 sq.m community/social enterprise space within Use Class D1, 1600 sq.m of residential floorspace comprising 14 flats of two or three bedrooms, plus garden and undercroft car parking. (Outline Application for a Major Development)

**RBK&C Drawing No(s): PP/04/00802  
Applicant's Drawing No(s): 15386/1000A, SK08D**

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**RECOMMENDED DECISION:** Refuse planning permission

## **REASONS FOR REFUSAL**

1. Given the proposed residential floorspace of 1600 sq.m, it is considered that if residential use is to be included on this site then the provision of only 14 units in total (none of which would be 'affordable') represents a clear failure to maximise the benefit to the housing stock of London that this site could otherwise (and should) achieve, as there would be a capacity for well over 15 housing units. As such, the proposed development is contrary to Policies contained within the Housing chapter of the Unitary Development Plan in particular Policy H22, STRAT17, STRAT18, and STRAT19.
2. With 31 parking spaces the proposed development would be well in excess of the maximum UDP parking standards for the units and floorspaces proposed. Therefore, the proposal fails to satisfy the requirements the Unitary Development Plan, in particular Policies TR36 and TR39.

## **INFORMATIVES**

1. You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, STRAT1, STRAT2, STRAT3, STRAT7, STRAT8, STRAT16, STRAT17, STRAT18, STRAT19, STRAT20, STRAT21, STRAT22, STRAT27, STRAT44, STRAT47, STRAT50, STRAT52, H2, H7, H8, H11, H12, H16, H18, H19, H22, E1, E4, E5, 10, E11, E12, E13, E15, E16, CD27, CD33, CD35, CD36, CD39, CD40, CD42, SC1, SC4, SC5, LR36, PU1, PU3, PU4, S13, TR27, TR36, TR37, TR38, TR41, and TR45.

## **1.0 THE SITE**

- 1.1 The application site comprises two adjacent plots of land, known as 'Plot 5' and 'Plot 6', with Plot 5 currently fenced off wasteland and Plot 6 being unauthorised non-residential car parking. The site is owned by the Council and Plot 6 is leased to 'Workspace 2 Limited' who own and lease small office suites, and operate Westbourne Studios under the Westway. The land is used as a parking facility for 24 cars for tenants and staff of the studios.
- 1.2 The site is 0.14 ha in area, located at the eastern end of Acklam Road, with the elevated A40 Westway immediately to the East at only 5m distant from the closest point of the boundary to Plot 5. The Muslim Cultural Heritage Centre is to the North on the opposite side of Acklam Road, and to the West the land use is residential with a large number of flats close by. No buildings nearby are Listed, and the site is not within or near to a Conservation Area.
- 1.3 The site is in North Kensington where new business development is generally encouraged, although it is not within a designated Employment Zone.

## **2.0 THE PROPOSAL**

- 2.1 Outline planning permission is sought for the provision of 2,845 sq.m of floorspace, comprising residential (Use Class C1) office (Class B1) and community/cultural floorspace (Class D1).
- 2.2 Fourteen flats are proposed, being a mixture of two and three bedroomed units, in a gross floor area of 1600 sq.m. The Class B1 office provision would be 700 sq.m gross, and the community floorspace 545 sq.m. 16 on-site parking spaces are proposed. It is estimated that about 60 people would be employed in the completed development.
- 2.3 As the application is for Outline planning permission, the elevational details of the proposed development are not known at this stage. Illustrative drawings show a building of five storeys above ground, with basement level car parking, with the development effectively comprising two buildings, one on Plot 5 and one on Plot 6, linked by a community facility and landscaped area inbetween. The ground level plan showing footprints of the development is included for approval with the Outline application, but the elevational drawings are not.

### **3.0 RELEVANT PLANNING HISTORY**

- 3.1 There is no relevant planning history, this being the first planning application concerning Plots 5 and 6.
- 3.2 On 15<sup>th</sup> May 2003 planning permission was refused for continued use of the land at Plot 6 as a car park for a period of one year.

### **4.0 PLANNING CONSIDERATIONS**

- 4.1 The primary considerations in this application are the Council's adopted and proposed policies relating to the development of sites for business/employment use, residential use, and cultural uses, and consideration of impact upon traffic and parking in the locality.
- 4.2 The relevant policies are contained primarily within the 'Housing', 'Offices and Industry', 'Conservation and Development', and 'Transportation' chapters of the UDP. Of particular importance are Policies STRAT1, STRAT2, STRAT3, STRAT7, STRAT8, STRAT13, STRAT 14, STRAT16, STRAT17, STRAT18, STRAT 19, STRAT20, STRAT21, STRAT22, STRAT27, STRAT44, STRAT47, STRAT50, STRAT52, H2, H7, H8, H11, H12, H16, H18, H19, H22, E1, E4, E5, 10, E11, E12, E13, E15, E16, CD27, CD33, CD35, CD36, CD39, CD40, CD42, SC1, SC4, SC5, LR36, PU1, PU3, PU4, S13, TR27, TR36, TR37, TR38, TR41, and TR45. Also substantial weight must be accorded to the Supplementary Planning Guidance, on "Air Quality" (October 2003) and "Employment Zones" (October 2002). Whilst only the policies contained in the UDP can have the status afforded by Section 54a of the 1990 Town and Country Planning Act in deciding planning applications SPG may be taken into account as a material consideration. The weight accorded to it is increased if it has been prepared in widespread consultation with the public and has been the subject of a Council Key Decision. Both these SPGs have gone through this process.

#### **Decontamination**

- 4.3 The existing uses on the site are considered unlikely to have resulted in significant contamination. However, there were obviously other uses here before them and the existence or not of any contamination below ground is, at present, an unknown factor and thus needs to be properly safeguarded. All necessary safeguards and remediation details need to be established firmly at the Outline stage.
- 4.4 Any excavated material that proves to be contaminated must go to a special landfill site which just deals with contaminated waste. Clearly, it is very important to ensure that contaminated land is identified through a site investigation, to ensure that excavated material is sent to the right location. It also follows that any soil for open landscaped areas, which would be likely to come into contact

with humans or plants, needs to be confirmed as 'clean'.

- 4.5 Therefore, an appropriate Condition is recommended, requiring site investigation to be carried out prior to any development and an appropriate Remediation Strategy to be devised and approved by this authority through the Director of Environmental Health.

**Loss of Existing Uses**

- 4.6 The existing 'uses', being semi derelict open space on Plot 6 and unauthorised carparking on Plot 5 (which is lawfully open space), would clearly be lost, although a landscaped garden integral to the development is shown on the ground floor plan and to some extent this would mitigate against the loss of any open space. There is an objection presented in the UDP, primarily through Policy LR8, to the loss of open space, although this is targeted at preserving open space that provides either for leisure and recreation needs or is significant in visual amenity terms. In this case the land, assuming that the unauthorised parking use was to cease, it is considered unlikely that this land would be likely to provide either a recreational facility or visual amenity facility of a quality that could be accorded much weight in assessing this application.

**Principle of Class B1 Floorspace**

- 4.7 There is a presumption in the UDP that in North Kensington the preferred use for this site should be business use, generating employment. Policies STRAT 20, STRAT 22, E11, E13, and E15 all support the provision of new business premises, and a range of premises, in North Kensington, and these policies therefore strongly support the provision of 700sq.m of Class B1 floorspace and the provision of employment for 60 people.
- 4.8 A mixture of unit sizes and flexibility of the unit composition within the development is encouraged under these Policies, and would need to be ensured by Condition.
- 4.9 Policy E1 covers the whole of the Royal Borough, unlike the various policies that support business uses in North Kensington, and is generally restrictive of large scale business development (i.e developments over 300 sq.m) subject to a number of criteria.
- 4.10 It should be noted that one of the exclusions to this Policy is where a proposal is replacing an existing industrial building which has not given rise to significant environmental or traffic problems; this is true of the application site, where the existing building has no recorded history of such problems and is considered suited to continued use for the existing businesses. The first two criteria of Policy E1 support the location of the proposed new business floorspace, the third criterion relating to housing is satisfied as housing is included in the proposal, and the fourth criterion relating to transport is considered to be satisfied in this case but as a major

consideration is returned to later in this report. It is concluded that there is no conflict with the criteria of Policy E1.

- 4.11 The presumption in favour of employment generating use on this site would support the development of the site solely for business use. In view of the proposed provision of residential use in lieu of business floorspace, a pertinent question is raised which is how to maximise the benefit to local job creation that a development of this site could provide.
- 4.12 Conditions requiring a certain percentage of employees to live within the Borough would be extremely difficult to enforce and probably unreasonable. A financial contribution to facilitate construction training for local people is one method of securing some local benefit. Another is to provide some support for existing or future employment initiatives.
- 4.13 The difficulty with this last possibility is that, whilst fine in principle, a secure mechanism must be found to channel any support to the right place. It is considered that the best way to achieve this is through the recently introduced Economic Development Fund.
- 4.14 At its July 2000 meeting, the Policy and Resources Committee approved a proposal to establish a largely self-sustaining, ring-fenced Economic Development Fund that does not rely on Council or Government resources. As a ring-fenced fund, it can be carried forward across financial years. The Fund is designed to finance employment-related initiatives, both established and new, in the first instance projects originally funded by 'FUNK' SRB ('Fighting Unemployment in North Kensington', from the Single Regeneration Budget) most at risk from the loss of this SRB funding which terminated in March 2003. An example of an existing project supported by the Fund is 'North Kensington Opportunities Centre' which is aimed at filling the gap in services created by the lack of a mainstream Job Centre in the area.
- 4.15 A contribution to the Economic Development Fund is considered to be appropriate in view of the need to maximise local employment benefits, and this would be secured by means of a Planning Obligation under S.106.

#### **Principle of Housing**

- 4.16 Although there are a number of UDP policies that encourage business development for the site, there are also a number (supported by government guidance) that support the use of land for residential purposes in particular Policy H2. However, the location of the site is not considered ideal for residential use given the 16m closest proximity to the elevated Westway; however, there is a very large amount of modern residential floorspace close by and Plot 6 of the site is no closer to the Westway than any of these flats. It is considered that with the appropriate construction techniques residential flats on Plot 6 would be supported by these

## UDP Policies.

- 4.17 However, the use of Plot 5 for housing is considered to be much more questionable given that flats on this part of the site would be much closer to the Westway than the nearby existing flats, and the amenity quality of flats so close to the Westway is considered to be questionable.
- 4.18 It is concluded, therefore, that residential use should be restricted to Plot 6 by Condition.

### **Affordable Housing**

- 4.19 The UDP follows government advice in having a 15 unit threshold in developments below which affordable housing is not formally required; Policy H22 requires a minimum of one third of units in a development of 15 units or over.
- 4.20 The 14 proposed units have a gross internal floor area of 1455 sq.m, which could theoretically provide over 20 two bedroomed flats of 57 sq.m. This would trigger an affordable housing requirement of at least 7 units under Policy H22.
- 4.21 This does present a dilemma. Firstly, the total number of housing units proposed for this floorspace is clearly an 'under-provision' as the same floorspace could clearly be used to provide accommodation for more households, and make a greater contribution to the housing targets for the Royal Borough and to London than proposed at present. Secondly, whilst it is true that all new housing units are welcomed by government guidance and the policies of this local authority, affordable units delivered through a registered social landlord are supported not just by these policies but additional ones besides. If residential use it to be included on this site, then the absence of affordable housing in a development scheme of this floorspace can only be seen as a significant failure, particularly in a built up part of London such as this where suitable sites are relatively hard to come by.
- 4.22 Given the proposed floorspace of 1455 sq.m, it is considered, then, that the provision of only 14 units in total (none of which would be 'affordable') represents a clear failure to maximize the benefit to the housing stock of London that this site could otherwise (and should) achieve. The significance of this is, it is considered, of sufficient gravity to justify a refusal of planning permission.
- 4.23 One possibility could be to grant planning permission, but subject to a Condition that (for example) no fewer than 21 residential units should be provided. Such a Condition could deal with the purely numerical side of the problem; however, it could not deal adequately with the matter of securing at least 7 of those 21 as affordable housing, as this would normally be secured through the developers entering into a planning obligation under S.106; not of course proposed in this case.



- 4.24 Given that a Condition would be inadequate, and a S.106 not practical, it is considered that the only conclusion can be that planning permission should be refused on this ground.

#### **Detailed Arrangement of Floorspace**

- 4.25 In line with UDP policies, Conditions are normally required for an Outline planning permission to ensure that mix of units is satisfactory and that the position and layout of industrial units are satisfactory for their purposes, within Class B1 as a whole and within Class B1(c). A number of Policies, in particular Policy E25, encourage the provision of a range of unit sizes in B1 development. The exact dimensions are important too; for Class B1(c) units to be satisfactory they would need to have good dedicated servicing, internal floor to ceiling heights of 3.35m or more, and normally be at ground floor level to achieve this.
- 4.26 In the case of this application, these factors are not known yet as is often the case with Outline application, and they would need to be safeguarded by Condition. To ensure that at least some of the Class B1 floorspace provided for small or 'start-up' business, a Condition requiring no fewer than 3 units to have a floorspace of no greater than 100 sq.m would be appropriate.

#### **Townscape**

- 4.27 Policies CD27 seeks to ensure that new development is compatible with the scale and pattern of surrounding development, and Policy E6 seeks to ensure that new business developments provide a visually interesting street frontage. Internal spaces and boundary treatment should contribute to a reasonably pleasant environment for employees at the development despite the proximity of the Westway, and also improve views into the site from its surrounding buildings and spaces.
- 4.28 The submitted illustrative plans show the proposed floorspace producing effectively two buildings linked by a lower section, illustrated as part atrium and part open space.
- 4.29 In footprint terms, it is considered that this makes a good use of the site area, and in part at least replaces the existing open space which is welcomed. In replacing existing poor quality open space with some space of much improved quality, a townscape benefit would be produced.
- 4.30 With the central part of the site as a 'lighter', and lower part of the development, being of three storeys rather than the 5 of the two main building sections, two advantages are achieved. Firstly, what would otherwise be one mass of five storey development is broken up into two, producing a less imposing building mass to Acklam Road. Secondly, from longer distance views through and over the development to the Muslim Cultural Centre to its North could be attained, adding interest to this development and also helping the

interesting architecture of the centre to make a contribution to the local scene rather than be 'hidden' by the new development.

- 4.31 In general massing terms, five above ground storeys are shown in the illustrative plans. It is considered that four storeys would be acceptable in this location, six would certainly be too many, and that five push the limits of acceptability but would be supported by a number of arguments, not least that on Plot 5 at least they would provide something of a barrier between the elevated Westway and the existing flats and also those proposed in this development if on Plot 6. Additionally, although the blocks to the West along Acklam Road are four storey, those adjacent to the South and South-West of the development are effectively four and half and also slightly raised in comparison with the application site level. On balance, and subject to acceptable form and design at the stage of Approval of Details, it is considered that likely massing of up to five storeys would be acceptable on this site.
- 4.32 The detail of the building elevations, atrium, landscaping and hard surfacing would come under the Reserved Matters.

#### **Traffic Generation and Parking**

- 4.33 The Director of Transportation and Highways has observed that a full Transportation Assessment has not been provided. Such a study would need to be provided before any detailed permission could be granted, although at this Outline stage it would be possible to deal with this by 'Grampian' style Condition.
- 4.34 The application currently proposes a total of 31 parking bays on site, illustrated in a basement car park. According to the limits for commercial uses set out in the UDP, only 1 business parking space should be provided for a development of this size, and for the proposed mix of 7 two bed and 7 three bed flats a maximum of 18 spaces should be provided. As it stands, with 31 parking spaces the proposed development would be well in excess of the maximum UDP standards. Therefore, the proposal fails to satisfy the requirements of Policies TR36 and TR39.

#### **Servicing**

- 4.35 Although at the Outline stage the exact servicing arrangements are not yet known, it is of course necessary at this stage to establish that adequate servicing of a development of this size, in this position, could be carried out.
- 4.36 Vehicular access to the site is shown as being from Acklam Road at the North-West end of the development, although the applicants have indicated that an alternative access at the South-East corner could also be explored. This alternative would depend upon impact upon an electricity substation and also residential amenity implications, and details would need to be submitted for this in order for this to be properly assessed to determine if it is indeed a practical alternative.

### **Disabled Access**

- 4.37 Access to the development by disabled people, and their ease of progress around and within the proposed development, are matters to be assessed at the Detailed stage, and there is no factor known at this stage that would indicate that Policy CD42 should not be complied with in a Detailed scheme.

### **Amenity Impact**

- 4.38 At this stage nothing is known about what air conditioning or other plant would be used in a development on this site, but these matters are all safeguarded by Condition.
- 4.39 Impact upon existing natural lighting levels enjoyed by neighbouring business premises is also a material consideration, and detailed design would need to take full account of this. However, it is not considered that any of the nearby buildings would be likely to suffer any significant reduction in existing daylight levels.

### **Sustainable Design and Development**

- 4.40 As this is an Outline application, the details required to ensure that any eventual development would adopt the best practices of environmental design and sustainability are set aside by Condition, and an application for Detailed approval would be assessed according to good practice as defined by the BRE 'Environmental Assessment Methods for Offices' 1998.
- 4.41 It is not considered that there is any reason to be concerned, at this Outline stage, that a detailed development of this site should be able to meet the highest of modern standards in terms of sustainable design.

### **Air Quality**

- 4.42 The whole of the Royal Borough has now been declared an Air Quality Management Area, an Air Quality Action Plan was adopted in June 2003, and Supplementary Planning Guidance has been produced on air quality. UDP Policies STRAT50, PU1, and PU2 together seek to resist development which would have an unacceptable impact upon air quality. Government guidance advises that greater weight may be given to consideration of air quality in particularly sensitive circumstances, although relatively less weight may be given where there are over-riding economic or social benefits or other material considerations associated with the development.
- 4.43 The SPG on air quality explains that developers will normally be required to submit an Air Quality Assessment for an application where the technical impact on air quality is likely to be significant. A Technical Guidance Note published by the Association of London Government offers advice relating to what is "significant", as follows:

- proposals that will result in an increase in vehicle trip generation in the local area, which result in increases in traffic volumes (Annual Average Daily Traffic) of 5 % or more on individual road links with more than 10,000 vehicles per day;
- proposals which may result in increased congestion and lower vehicle speeds than are present on the existing local road network;
- proposals which significantly alter the composition of traffic such that adverse air quality impacts may arise;
- proposals for new developments with 300 parking spaces or more or an increase in existing parking provision of 300 spaces or more;
- proposals for coach and lorry parks;
- any development likely to have an adverse impact on air quality, particularly in sensitive areas (for example where predicted air pollution levels already exceed air quality objective levels by 10 % or more); or
- proposals that have the potential to result in significant emissions of pollutants from industrial activities.

4.43 Each of these criteria are considered to be satisfied by the development proposals, bar the penultimate one. The Director of Environmental Services recommends that an Air Quality impact assessment should be submitted and approved before development commences, required by an appropriate Condition.

#### **Planning Obligation under S.106**

4.44 It is considered that a Planning Obligation would be necessary under section 106 of the Town and country Planning Act 1990. This would be required to secure (a) the provision of affordable housing (b) the provision of some public art (c) the provision of a contribution to the Economic Development Fund in lieu of maximizing on site employment generating opportunities, and (d) the provision of on-site construction training in the development

### **5.0 CONSULTATION**

5.1 One hundred and ninety one letters of notification were sent to properties in Acklam Road, St. Ervan's Road, and Tavisatock Road, and a site notice was also posted advertising the application as a 'Major Development'. One representation has been received, this from the Kensington Society.

5.2 The Kensington Society have objected to the proposal on the ground that the application is incomplete in the absence of elevational detail.

This would be a Reserved Matter as this is an application for Outline planning permission.

- 5.3 Crossrail have responded that they do not wish to make any comment.

**M.J. FRENCH**  
**EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION**

**List of Background Papers:**

**The contents of file PP/04/00802 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.**

**Report Prepared By: DT**  
**Report Approved By: LAWJ**  
**Date Report Approved: 29/06/04**

**PSC07/04/DT.REP**